

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

FILED

2010 DEC -2 AM 10:19

CLERK US DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY [Signature]
DEPUTY

CROSSROADS SYSTEMS, INC.,
Plaintiff,

-vs-

Case No. A-10-CA-652-SS

3PAR, INC., et al.,
Defendants.

ORDER

BE IT REMEMBERED on this day the Court called the above-styled cause for a status conference and the parties appeared through counsel. The Court confirms its oral announcements with this written order as follows:

IT IS ORDERED that the Court APPOINTS Mr. Karl Bayer as Special Master in the above-styled cause pursuant to Fed. R. Civ. P. 53. A copy of Mr. Bayer's curriculum vitae is attached to this Order. An investigation by the Court reveals Mr. Bayer has no conflicts of interest with the parties to the case or their counsel. The Court therefore finds Mr. Bayer is qualified to serve as a Special Master in this case. Interim compensation at the rate of \$400.00 (Four Hundred and no/100 Dollars) per hour shall be borne proportionately as agreed by the parties and is to be paid on a monthly basis. See Fed. R. Civ. P. 53(a). The total amount of compensation shall be taxed as costs at the conclusion of this case.

SIGNED this the 1st day of December 2010.

[Signature]
SAM SPARKS
UNITED STATES DISTRICT JUDGE

KARL BAYER
Dispute Resolution Specialist

8911 North Capital of Texas Highway Suite 2120 Austin, Texas 78759 (512) 345-8537 karl@karlbayer.com

EDUCATION

- 1998 **The University of Texas at Austin**, classes in microbiology and digital systems design
- 1976 **University of Texas School of Law**, J.D.
- 1973 **Massachusetts Institute of Technology**, M.S. (Biomedical Engineering)
- 1971 **Rice University**, B.A. *cum laude* (Electrical Engineering)

EXPERIENCE

- 1991-present **Karl Bayer, Dispute Resolution Specialist**
Solo litigation and arbitration practice in personal injury, business and intellectual property disputes and private mediator and arbitrator in all areas of conflict, Austin, Texas
- Special Patent Master and Discovery Master** in a number of cases in Texas Federal Courts
- 1997-1999 **Resolution Architects**
Partner, Conflict resolution consulting on public policy, health care, technology and environmental issues, Austin, Texas
- 1989-1991 **Gibbins, Winckler & Bayer** - Partner, Austin, Texas
- 1988-1989 **Bickerstaff, Heath & Smiley** - Special Counsel, Austin, Texas
- 1988 **Texas Supreme Court Candidate** - Democratic Nominee for Place 5
- 1982-1988 **Pluymen & Bayer Attorneys** - Partner, Austin, Texas
- 1981-1982 **Brown, Maroney, Rose, Barber & Dye** - Associate Attorney, Environmental, Utility and Technology Section, Austin, Texas
- 1980-1981 **U. S. Environmental Protection Agency** - Staff Attorney, Office of General Counsel, Pesticides and Toxic Substances, Washington, D.C.
- 1979-1980 **U. S. House of Representatives** - Legislative Director for Representative Kent Hance
- 1977-1979 **Grambling, Mounce, Sims, Galatzan & Harris** - Associate Attorney, Business Litigation El Paso, Texas
- 1975-1976 **Omnibus** - Founding Partner, Automated school bus routing, Austin, Texas and Washington, D.C.
- 1974-1977 **Texas Senate** - Legislative and Administrative Assistant to Senator Don Adams, Austin, Texas
- 1973 **Concord Research Corporation** - Staff Engineer, Design of radar tracking systems and computer systems for school desegregation, Boston, Massachusetts

SPECIAL MASTER EXPERIENCE

- 2006-present **Pretrial Discovery Master:** *Air Measurement Technologies, Inc., et al. v. Gary W. Hamilton, et al.*; Case No. SA-03-CA-0541-RF; In the United States District Court for the Western District of Texas, San Antonio Division
- Pretrial Discovery Master:** *Janaki Ramadoss, et al. v. Caremark, Inc.*; Case No. SA-99-CA-0914-RF; In the United States District Court for the Western District of Texas, San Antonio Division
- Markman Master:** *Spectranetics Corp. v. Medtronic, Inc.*; Case No. A-07-CA-548-SS; In the United States District Court for the Western District of Texas, Austin Division
- Markman Master:** *Levitation Arts, Inc. v. Fascinations Toys and Gifts, Inc.*; Case No. A-07-CA-990-SS; In the United States District Court for the Western District of Texas, Austin Division
- Markman Master:** *The Western Union Co. v. Moneygram Int'l, Inc.*; Case No. A-07-CA-00372-SS; In the United States District Court for the Western District of Texas, Austin Division
- Numerous cases mediated and arbitrated involving claims construction, technical issues and patent issues. References available upon request and upon approval by counsel in those cases.
- 2005-2006 **Markman Master:** *Silicon Laboratories, Inc. v. Ali NikNejad and Axiom Microdevices, Inc.*, Case No. A-04-CA-155-SS; In the United States District Court for the Western District of Texas, Austin Division
- Markman Master:** *Board of Regents of the University of Texas System v. Benq America Corp., et al.*; Case No. A-05-CA-181-SS; In the United States District Court for the Western District of Texas, Austin Division
- Markman Master:** *Pavilion Technologies, Inc. v. Emerson Electric Co., et al.*; Case No. A-05-CA-898-SS; In the United States District Court for the Western District of Texas, Austin Division
- 2004-2005 **Markman Master:** *Crossroads Systems Corp. v. Dot Hill Systems Corp.*; Case No. A-03 CV-754 SS; In the United States District Court for the Western District of Texas, Austin Division
- 2002 **Markman Master:** *VIA Technologies v. Intel Corporation*; Case No. A-01-CA-602-SS; In the United States District Court for the Western District of Texas, Austin Division
- Markman Master:** *Pavilion Technologies, Inc. v. Computer Associates International, Inc.*; Case No. A-01-CA-507 SS; In the United States District Court for the Western District of Texas, Austin Division
- 2000 **Pretrial Discovery Master:** *Western Aircraft, Inc. v. Grupo Nacional Provincial, S.A., et al.*; Case No. DR 97-CV-090-WWJ; In the United States District Court for the Western District of Texas, Del Rio Division
- 1997 **Markman Master:** *Crystal Semiconductor Corporation v. Opti, Inc. and Tritech Microelectronics International PTE Ltd.*; Case No. A-97CA-026-SS; In the United States District Court, Western District of Texas, Austin Division. Reported at 246 F.3d 1336.

PROFESSIONAL ACTIVITIES

- 2000-present Electronic Filing Committee, US District Court, Western District of Texas
- 2000-present Annual Guest Lecturer, Texas Civil Litigation: Pretrial and Trial Strategy Course, University of Texas School of Law
- 1999 Magistrate Selection Committee, US District Court, Western District of Texas

1996-1999 Supreme Court Advisory Committee on Court-Annexed Mediation

1996 Lecturer: "Alternative Methods of Dispute Resolution", St. Mary's Law School -- Anáhuac University Law School, Mexico City, Mexico

1992-1996 State Bar of Texas Pattern Jury Charge Committee, Volume 3 (Malpractice, Premises & Products)

1987-1996 Board of Directors, Legal Aid Society of Central Texas (President 1991)

1993-1995 State Bar of Texas Rules of Evidence Committee

1994-1995 Lecturer: "Alternative Methods of Dispute Resolution: Conciliation, Mediation and Arbitration," St. Mary's Law School -- University of Monterrey Law School Joint Venture, Monterrey, Mexico

1993 Lecturer: "Negotiations", St. Mary's Law School -- University of Monterrey Law School Joint Venture, Monterrey, Mexico

1987-1993 Instructor, "Winning at Trial", University of Texas School of Law

1991-1995 Guest lecturer on Professional Responsibility, University of Texas School of Law

1992 Member, Governor's Environmental Agency Transition Committee

1991-1992 President, Texas Consumer Association
Member, Air Control Board Task Force on Compliance History

PROFESSIONAL ASSOCIATIONS

National: American Arbitration Association; American Bar Association; Federal Bar Association

State: State Bar of Texas; Texas Bar Foundation

Regional: Capital Area Trial Lawyers Association (President 1990-1991); Austin Bar Association; Austin Association of Attorney Mediators (President 2004)

PUBLICATIONS

Ongoing Author, "Disputing", blog about current Texas and Fifth Circuit opinions pertaining to arbitration, www.karlbayer.com/blog

2008 Author, "Discovery Issues in Arbitration Proceedings", 21st Annual Advanced Evidence and Discovery Conference, The State Bar of Texas

2007 Author, "Arbitration", Bench Bar "007", Austin Bar Association

2006 Author, "Arbitration". Page Keeton Civil Litigation Conference, University of Texas School of Law

2005 Author, "Standards of Review as Applied to Arbitral Decisions", Business Disputes and Litigation in the Digital Age, The State Bar of Texas

2001 Author, "Domain Names: Understanding What's New, How to Protect Your Client's Presence", High-Tech Megacourse: the New High Tech Industry, The State Bar of Texas

Author, "Liability of Pharmacists," University of Houston Law Foundation Program on Medical Malpractice, Medical Device and Pharmaceutical Litigation

Author, "Getting and Protecting Electronic Information" South Texas College of Law Advanced Civil Trial Law Conference

- 2000 TILA Advanced Personal Injury Course: "Pre-Settlement Liens and Preserving Entitlement"
- Author, "State law Causes of Action in High-Tech Litigation" State Bar of Texas Advanced High Tech Litigation Program
- 1998 Author, "Pharmacists' Liability: Analysis of the Development of a Duty to Warn", Medical Malpractice, Medical Device & Pharmaceutical Litigation Seminar, University of Houston Law Center
- 1997 Author, "ADR in Complex Medical Malpractice/Pharmaceutical/Medical Device Liability Litigation", Advanced Course Medical Malpractice, Pharmaceutical and Medical Device Litigation, State Bar of Texas, Santa Fe
- Author, "Ten Suggestions For Managed Care Law Suits," Dynamic Advocacy Seminar, Texas Trial Lawyers Association, Whitefish, Montana
- 1996 Author, "Opinion Evidence After *Daubert* and *Robinson*", Medicine for Lawyers Conference, The University of Texas School of Law
- 1995 Author, "ADR in the Medical Malpractice Context", Advanced Medical Malpractice Course, State Bar of Texas, Santa Fe
- Author, "New Relevancy and Admissibility Problems", University of Houston Law Center
- Author, "Case Law and Legislative Update on Punitive Damages", The University of Texas School of Law Products Liability and Personal Injury Conference
- 1994 Author, "ADR in Complex Medical/Pharmaceutical Liability Litigation", Advanced Course Medical Malpractice, Pharmaceutical and Medical Device Litigation, State Bar of Texas
- Author, "Car Wrecks and Drunk Drivers on the Information Superhighway", Dynamic Advocacy Seminar, Texas Trial Lawyers Association
- Author, "Common Relevancy Problems - Admissibility of Prior Occurrence Evidence after *Moriel*", Advanced Evidence and Discovery Institute, University of Houston Law Foundation
- Author, "Assessing and Evaluating the Malpractice Case: Plaintiff's View", Medical Malpractice Seminar, National Business Institute
- Author, "Environmental Cases: Sick Building Syndrome", Premises Liability Seminar, Texas Trial Lawyers Association
- Author, "Other Occurrence Evidence, Gross Negligence and Exemplary Damages, Post *Moriel*", The University of Texas School of Law Products Liability and Personal Injury Conference
- 1993 Author, "Domestic Torts", The Rutter Group-Texas Family Law Treatise
- Author, "Damages Update", UT Product Liability Conference, University of Texas School of Law
- Author, "Habit and Character Evidence", Advanced Evidence and Discovery Course, State Bar of Texas
- Author, "Torts", Advanced Family Law Drafting Course, State Bar of Texas
- Author, "ADR Update", Advanced Civil Trial Course, State Bar of Texas
- Author, "Duty or Damage?, Emotional Distress and Mental Anguish Following *Boyles v. Kerr* and *Twyman v. Twyman*", Butterworth's Texas Personal Injury Law Reporter

- Author, "Toxic Torts - Plaintiff's Perspective", South Texas School of Law Environmental Symposium
- 1992 Author, "Update on Architect and Engineer Liability", The University of Texas School of Law Construction Law Conference
- Author, "Professionalism", Advanced Personal Injury Law, State Bar of Texas
- Author, "Environmental Insurance Litigation", The University of Texas School of Law Product Liability and Personal Injury Conference
- Author, "Insurance Coverage in Toxic Torts", The University of Texas School of Law Product Liability and Personal Injury Conference
- 1991 Author, "Attorney Work-Product and Attorney-Client Privilege", Discovery in the New Age, Texas Trial Lawyers Association
- Author, "Current Developments in Deceptive Trade Practices", Advanced Personal Injury Law Conference, State Bar of Texas
- 1990 Author, "Medical Negligence", Advanced Practice Pointers and Trial Techniques, Texas Trial Lawyers Association
- 1989 Author, "Intentional and Negligent Infliction of Emotional Distress", Domestic Torts, South Texas College of Law
- Author, "Computers as a Tool of Presenting Information Persuasively", The University of Texas School of Law Product Liability and Personal Injury Conference
- 1988 Author, "Repeal of the Interspousal Immunity: Torts Come to Family Law", Marriage Dissolution Institute, State Bar of Texas
- Author, "Deceptive Trade Practices Act: A Primer", The University of Texas School of Law Product Liability and Personal Injury Conference
- 1987 Author, "Strategic Consideration in Selecting a Products Theory", The University of Texas School of Law Product Liability and Personal Injury Conference
- Author, "Toxic Tort Developments", American Conference on Chemical Labeling
- Author, "Trying Marital and Family Torts after *Price*", Family Law Seminar The University of Texas School of Law
- 1986 Author, "Voir Dire in Product Liability Cases", The University of Texas School of Law Product Liability and Personal Injury Conference
- 1985 Executive Producer of 45 minute educational documentary sponsored by the Texas Bar Foundation entitled "The Earth, the Air, the Water, and ... the Law"
- "Governmental Regulation of Recombinant DNA Research and Manufacturing Processes" Comprehensive Biotechnology, Vol. 3, Chapter 63 (1985).
- 1983 Co-author of "Federal Regulation of Emerging Genetic Technologies", 36 Vanderbilt Law Review, 461 (1983)
- 1973 Author, "The Length and Organization of the Parallel Fibers of the Turtle Cerebellum", Masters Thesis, Massachusetts Institute of Technology. (1973)